


Plaintiff Dawn Joyner's "Motion for Mandatory Judicial Notice" (ECF No. 22) is DENIED WITHOUT PREJUDICE to renewal at the appropriate stage of this litigation. The Clerk of Court is respectfully directed to close ECF No. 22 and to mail a copy of this Order to Ms. Joyner at the address below.

SO ORDERED 3/23/2022

Mail To: Dawn Joyner  
343 Gold Street, Apt. 903, Brooklyn, New York 11201

  
SARAH L. CAVE  
United States Magistrate Judge

DAWN M. JOYNER, *Sui Juris*,

Plaintiff,

v.

ALSTON & BIRD LLP, RICHARD HAYS, in his official  
and individual capacities, CATHY BENTON, in her official  
and individual capacities, and MICHAEL STEPHENS,  
in his official and individual capacities,

Defendants.

Case No. 1:21-cv-08549-AT-SLC

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**PLAINTIFF’S MOTION FOR MANDATORY JUDICIAL NOTICE**

COMES NOW Plaintiff DAWN M. JOYNER and hereby respectfully moves this Court to take Mandatory Judicial Notice of the following federal rules, case law and legal definitions.

**Federal Rules of Civil Procedure**

**Rule 56(c)(4):** Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

**Federal Rules of Evidence**

**Rule 602:** A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness’s own testimony.

**Rule 603:** Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness’s conscience.

**Rule 802:** Hearsay is not admissible unless any of the following provides otherwise:

- a federal statute;
- these rules; or
- other rules prescribed by the Supreme Court.

### Case Law

“The defendants motion to dismiss to state a claim unsupported by affidavits or depositions is incomplete because it requests this Court to consider facts outside the record which have not been presented in the form required by Rules 12(b)(6) and 56(c). Statements of counsel in their briefs or argument while enlightening to the Court are not sufficient for purposes of granting a motion to dismiss or summary judgment.” *Trinsey v. Pagliaro*, 229 F. Supp. 647 (E.D. Pa. 1964)

### Legal Definitions

**Competent witness:** One who is legally qualified to be heard to testify in a cause. A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Fed.Evid.R. 602. *Black’s Law Dictionary* 284 (6th Ed. 1990)

**Evidence:** Any species of proof, or probative matter, legally presented at the trial of an issue, but the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, etc. for the purpose of inducing a belief in the minds of the court or jury as to their contention. *Taylor v. Howard*, 111 R.I. 527, 304, A.2d 891, 893. Testimony, writing, or material objects offered in proof of an alleged fact or proposition, *People v. Leonard*, 207 C.A.2d 409, 24 Cal.Rptr. 597, 600. *Black’s Law Dictionary* 555 (6th Ed. 1990)

WHEREFORE, pursuant to Rule 201 of the Federal Rules of Evidence, Plaintiff hereby respectfully moves this Court to take Mandatory Judicial Notice of the aforementioned, without hearing and for such other and further relief as this Honorable Court deems just and proper under the circumstances.

Dated: March 22, 2022

Respectfully submitted,  
Without Prejudice 1-308/1-207.  
All Rights Reserved.

By: /s/ Dawn-Mignonne: Joyner  
**™Dawn-Mignonne: Joyner©**,  
Authorized Agent & Representative  
for DAWN MIGNONNE JOYNER®™  
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